

FILED
US DISTRICT COURT
DISTRICT OF ALASKA

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Attorney for Plaintiff-Intervenor
Shotsay Posciri

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

SHOTSAY POSCIRI,

Plaintiff-Intervenor,

vs.

UNITED FREIGHT AND TRANSPORT,
INC.,

Defendant.

Case No. A05-0122-CIV (JWS)

MOTION FOR LEAVE TO AMEND COMPLAINT

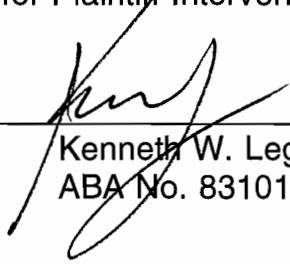
Plaintiff-Intervenor Shotsay Posciri, by and through counsel, hereby

moves this Court for leave to amend her complaint to conform to the pleadings, pursuant to Fed. R. of Civ. P. 15(a) and (b), to add another claim for damages based on the recent depositions that were taken in this case. This motion is supported by the attached memorandum and affidavit. The original First Amended Complaint in Intervention is also being lodged with the Court.

DATED at Anchorage, Alaska, this 23rd day of December, 2005.

KENNETH W. LEGACKI, P.C.
Attorney for Plaintiff-Intervenor


By


Kenneth W. Legacki
ABA No. 8310132

I HEREBY CERTIFY that on the 23rd day of December, 2005, a copy of the foregoing document was mailed to the offices of:

A. Luis Lucero, Jr.
Kathryn Olson
Teri Healy
Equal Employment Opportunity Commission
909 First Avenue, Suite 400
Seattle, WA 98104-1061

William J. Evans
Dorsey & Whitney
1031 West Fourth Avenue, Suite 600
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Case No. A05-0122-CIV (JWS)

**MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO AMEND COMPLAINT**

Depositions were recently taken in this case and the deposition of Frank
Monfrey, president of the defendant company, was taken on December 9, 2005.

During the deposition, Mr. Monfrey made the statement that he would not under any circumstance hire Shotsay Posciri because she filed a grievance for discrimination. The ostensible reason given was due to the union's approach to settle the grievance filed by Ms. Posciri.

At his deposition, he stated that the reason why he would not hire Shotsay Posciri was because the union dispatcher was trying to strong-arm him into hiring Shotsay Posciri, almost to the point of extortion. However, the dispatcher, Mike Killian, has vehemently disputed the allegation that he attempted to strong-arm the president of United Freight. All contemporaneous writings, including those of Mr. Monfrey, indicate the opposite of Mr. Monfrey's testimony.

Mr. Monfrey was extensively questioned about this alleged threat and nowhere in any writing or any memorandum or any personal notes taken contemporaneously was the mention of a threat ever recorded by Mr. Monfrey. It was only at his deposition that Mr. Monfrey stated for the first time that an attempt of extortion was made against him.

On the other hand, the union has made contemporaneous notes stating just the opposite. The union was trying to compromise a grievance filed through the collective bargaining process and Mr. Monfrey just refused the attempt to settle the grievance.

Since the rules permit Shotsay Posciri's complaint to be amended to conform to the evidence, Plaintiff-Intervenor is raising this issue now, rather than

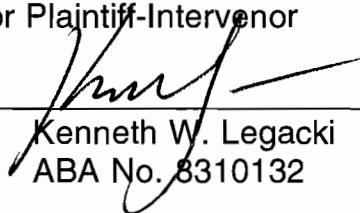
waiting until the dispositive motion stage or trial in order to give ample notice to the defendant and to the Court that the retaliatory claim is now an issue in the case. Ms. Posciri wants to amend her complaint accordingly so that there is no prejudice to any party. A copy of the First Amended Complaint in Intervention is attached hereto as Exhibit 27, and the original is being lodged with the Court with this filing.

Attached hereto as Exhibit 28 is the affidavit of Ken Legacki, the personal attorney for Shotsay Posciri, and he sets forth the reasons under oath as to the need to amend the complaint.

DATED at Anchorage, Alaska, this 23rd day of December, 2005.

KENNETH W. LEGACKI, P.C.
Attorney for Plaintiff-Intervenor

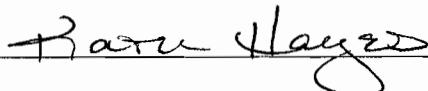
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